

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9115

IN THE MATTER OF:

Served November 8, 2005

Application of EMK SERVICES, INC.,)	Case No. AP-2005-168
for a Certificate of Authority --)	
Irregular Route Operations)	

By application accepted for filing October 11, 2005, EMK Services, Inc., a Maryland corporation, seeks a certificate of authority for irregular route operations in vehicles with a seating capacity of less than 16 persons only, including the driver.

Applicant proposes commencing operations with one van. Applicant's proposed tariff contains rates for transportation under the District of Columbia Medicaid program and similar non-Medicaid rates.

Applicant held WMATC Certificate of Authority No. 855 from January 22, 2004 to November 29, 2004, when the Commission assessed a \$750 civil forfeiture against applicant and revoked Certificate No. 855 on the grounds that applicant operated for three days while suspended and uninsured in knowing and willful violation of Article XI, Section 6(a) of the Compact and Order No. 8254.¹

Applicant reapplied for a certificate of authority on January 10, 2005, but the application was denied without prejudice for failure to establish regulatory compliance fitness.²

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.³ A determination of compliance fitness is prospective in nature.⁴ The purpose of the inquiry is to protect the public from

¹ In re EMK Servs. Inc., No. MP-04-153, Order No. 8440 (Nov. 29, 2004).

² In re EMK Servs. Inc., No. AP-05-05, Order No. 8921 (Aug. 19, 2005).

³ In re Zee Transp. Serv. Inc., No. AP-04-115, Order No. 8275 (Sept. 20, 2004); In re Nevah Transports, LLC, No. AP-02-121, Order No. 7001 (Jan. 21, 2003).

⁴ Order No. 8275; Order No. 7001.

those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.⁵ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁶

This proceeding is hereby initiated to determine whether applicant is fit and whether the proposed transportation is consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That applicant shall publish once in a newspaper of general circulation in the Metropolitan District, no later than November 22, 2005, notice in the form prescribed by the staff of the Commission.

2. That applicant shall file with the Commission, no later than December 6, 2005, an affidavit that notice has been published as required in the preceding paragraph.

3. That the deadline for filing protests, comments, applications for intervention, and requests for formal hearing, is December 6, 2005, and that copies must be served on applicant's attorney, Joel C. Weingarten, Esquire, 1616 H Street, N.W., #902, Washington, DC 20006.

FOR THE COMMISSION:



William S. Morrow, Jr.
Executive Director

⁵ Order No. 8275; Order No. 7001.

⁶ Order No. 8275; Order No. 7001.